

**OFFICE OF THE MISSISSIPPI SECRETARY OF STATE
BUSINESS REGULATION AND ENFORCEMENT DIVISION**

IN THE MATTER OF:)	
)	
HORIZON SALES;)	
JOHNNIE LONG)	ADMINISTRATIVE PROCEEDING
Post Office Box 3113)	NUMBER: <u>C-05-0242</u>
Lexington, Mississippi 38801)	
)	
Respondents)	

**SUMMARY CEASE AND DESIST ORDER AND
NOTICE OF INTENT TO IMPOSE ADMINISTRATIVE PENALTY**

I. JURISDICTION

Comes now, James O. Nelson, II, Assistant Secretary of State for the Business Regulation and Enforcement Division (hereinafter "Division"), on behalf of Eric Clark, Secretary of State for the State of Mississippi, and issues this Summary Cease and Desist Order and Notice of Intent to Impose Administrative Penalty against Respondent Horizon Sales, Inc. (hereinafter "Horizon") for violations of the Mississippi Charitable Solicitations Act (hereinafter "Act"), codified at Miss. Code Ann. §§79-11-501 *et seq.*

The Secretary of State is vested with the regulation of fund-raising counsel in the State of Mississippi pursuant to the Act. Respondent is a fund-raising counsel as defined by Miss. Code Ann Section 79-11-501(e) (2001), to-wit:

(e) "Fund-raising counsel" means a person (i) who for a fixed fee or rate under a written agreement plans, manages, advises or consults with respect to the solicitation in this state of contributions by a charitable organization, (ii) who neither solicits contributions nor directly or indirectly employ, procure or engage any person compensated to collect contributions, and (iii) who does not at any time, whether directly or indirectly, receive or have custody or control of contributions. A bona fide nontemporary salaried officer or employee of a charitable organization shall not be deemed to be a fund-raising counsel. No attorney, accountant or banker who renders professional services to that person

shall be deemed, as a result of the professional service or advice rendered, to be a fund-raising counsel.

Based on information obtained by the Division, it appears that Horizon is a fund-raising counsel as defined in the above statute, and is required to register as such with the Division. Thus, Horizon is subject to the jurisdiction of the Secretary of State.

II. FINDINGS OF FACT

1. Horizon purports to be a Mississippi based company whose exclusive business is school fund-raising. The last known address for Horizon is Post Office Box 3113, Tupelo, Mississippi 38801.
2. Johnnie Long (hereinafter "Long") is a natural person and resident of the state of Mississippi. Long's last known address is 903 Ashley Lane, Tupelo, Mississippi 38801. Long is the president of Horizon.
3. On May 23, 2005, the Division sent Long a letter indicating that Horizon was not registered as a professional fund-raiser pursuant to the registration requirements of the Act. The Division's letter is affixed hereto as Exhibit "A."
4. In response to the Division's letter, Larry J. Kelso (hereinafter "Kelso"), accountant for Horizon, sent an August 4, 2005, letter to the Division noting that Horizon's business consists of selling products to its customers for the purpose of making a profit over and above the cost of the product. The letter further explains that Horizon's customers include schools, churches, daycare centers and other organizations, which in turn sell the product to benefit Horizon's own enterprise. Kelso concludes in his letter

that Horizon does not meet the definition of a professional fund-raiser. Kelso's letter is affixed hereto as Exhibit "B."

5. It appeared to the Division, after reviewing Kelso's letter and the information contained on Horizon's website (www.highschoolfundraisers.com), that Horizon is not a professional fundraiser, but a fund-raising counsel, required to be registered with the Division in order to lawfully act as such in Mississippi.

6. Horizon's website indicates that the company provides Instructional Manuals that contain "everything you will need to know for an effective fundraising campaign." The Table of Contents of the instructional manual include the following: The Overall Program; Example Volunteer Letter; Sample Student/Parent Letters; Accounting Form Information; Accounting Form; Order Form Information; Money Collection; Prizes; Bonus Prize Information; Bonus Prize Order Form; Order Form Cover Sheet; Sponsor Arrival; Distribution/Corrections; and Late Corrections.

7. The website also notes that Horizon will "send you a complete kit outlining product, prize and profit details" and that "[e]very program comes complete with an instructional manual, sample products, brochures, order taker forms, customer receipts, collection envelopes and everything else necessary to run a successful program." This information is also detailed in an instructional video which is available upon request.

8. In addition to supplying clients with the above information, Horizon makes the following representations on its website:

"Horizon Sales, Inc. is a Mississippi based company whose exclusive business is school fund raising."

"A fundraising company you can count on."

9. Based on the above facts and other information obtained by the Division, it appears to the Division that Horizon plans, manages, advises or consults with respect to the solicitation in this state of contributions by charitable organizations. Thus, Horizon is a fund-raising counsel as defined in the Act.

III. APPLICABLE LAW

10. Section 79-11-501(e) of the Act defines fund-raising counsel with the following:

(e) "Fund-raising counsel" means a person (i) who for a fixed fee or rate under a written agreement plans, manages, advises or consults with respect to the solicitation in this state of contributions by a charitable organization, (ii) who neither solicits contributions nor directly or indirectly employ, procure or engage any person compensated to solicit contributions, and (iii) who does not at any time, whether directly or indirectly, receive or have custody or control of contributions. A bona fide nontemporary salaried officer or employee of a charitable organization shall not be deemed to be a fund-raising counsel. No attorney, accountant or banker who renders professional services to a charitable organization or advises a person to make a charitable contribution during the course of rendering professional services to that person shall be deemed, as a result of the professional service or advice rendered, to be a fund-raising counsel.

11. Section 79-11-513 of the Act codifies the registration requirements for fund-raising counsel with the following, in relevant part:

No person shall act as a professional fund-raiser or fund-raising counsel for a charitable organization before he has registered with the Secretary of State or after the expiration or cancellation of such registration or any renewal thereof. Applications for registration and renewals shall be in writing sworn to under penalties of perjury in the form prescribed by the Secretary of State and accompanied by the filing of a fee of Two Hundred Fifty Dollars (\$250.00).

Registration when effected shall be for a period of one (1) year, or a part thereof, expiring on the thirtieth day of June and may be renewed upon written application, under oath, in the form prescribed by the Secretary of State and upon the remittance of the renewal fee of Two Hundred Fifty Dollars (\$250.00) and the filing of the bond for additional one-year periods. Every professional fund-raiser

and fund-raising counsel required to register pursuant to Sections 79-11-501 through 79-11-529 shall file an annual written report with the Secretary of State containing such information and documentation as he may require by rule.

IV. CONCLUSIONS OF LAW

Respondent violated Section 79-11-513 of the Act by acting as a fund-raising counsel for a charitable organization before registering with the Secretary of State.

V. ADMINISTRATIVE PENALTY

Please take notice that the Secretary of State intends to impose an administrative penalty of up to Twenty-five Thousand Dollars (\$25,000.00) for each offense, each violation to be considered a separate offense in a single proceeding, of Miss. Code Ann. Section 79-11-501 through 79-11-529. The imposition of an administrative penalty shall be assessed and an order assessing same shall become effective, along with a final Cease and Desist Order, thirty (30) days after receipt of this Notice unless a request for an administrative hearing is received by the Secretary of State before the expiration of said thirty (30) days.

VI. PUBLIC INTEREST

The actions taken and proposed to be taken herein by the Secretary of State are in the public interest and are consistent with the purpose set out in Miss. Code Ann. Section 79-11-501, *et seq.*

VII. AMENDMENTS

The Division reserves the right to amend this Summary Cease and Desist Order and Notice of Intent to Impose Administrative Penalty.

VIII. ORDER

IT IS THEREFORE ORDERED, pursuant to the authority set out in §79-11-501 through §79-11-529 of the Act, that the Respondent shall immediately **CEASE AND DESIST** FROM ANY FURTHER ILLEGAL ACTIVITY IN, OR ORIGINATING FROM, the State of Mississippi in connection with solicitations of charitable contributions.

NOTICE is hereby given that the Respondent shall have thirty (30) days from the date of receipt of this Summary Cease and Desist Order and Notice of Intent to Impose Administrative Penalty to give written notice to James O. Nelson, II, Assistant Secretary of State for Business Regulation & Enforcement, Office of the Secretary of State, Post Office Box 136, 700 North Street, Jackson, Mississippi 39205-0136. In the event such a hearing is requested, the Respondent may appear, with or without the assistance of an attorney, on a date and at a time and place to be specified and cross-examine witnesses, present testimony, evidence and argument relating to the matters contained herein. Upon request, subpoenas may be issued for the attendance of witnesses and for the production of books and papers on the Respondent's behalf at the hearing relating to matters contained herein. In the event such written notice is not received within said thirty (30)

day period of time, a FINAL CEASE AND DESIST ORDER may be entered in this proceeding with no further notice.

This the 1st day of February, 2006.

ERIC CLARK
Secretary of State

By:


JAMES O. NELSON, II
Assistant Secretary of State
Business Regulation & Enforcement

Nathan Thomas MSB #100496
Senior Attorney
Mississippi Secretary of State's Office
P.O. Box 136
700 North Street
Jackson, MS 39205
(601) 359-6366


STATE OF MISSISSIPPI	
I hereby certify that this is a true and complete copy of	
the <u>7</u>	page document on file in this office
DATED <u>2/22</u>	, 20 <u>06</u>
BY <u>Eric Clark</u>	
This Certification Stamp Replaces Our Previous Certification System	

CERTIFICATE OF SERVICE

I, Nathan Thomas, do here by certify that I have this day mailed via Certified Mail, postage pre-paid, a true and correct copy of the Summary Cease and Desist Order and Notice of Intent to Impose Administrative Penalty to the following:

JOHNNIE LONG
Post Office Box 3113
Lexington, Mississippi 38801

This the 22nd day of February, 2006.


NATHAN THOMAS
Senior Attorney



STATE OF MISSISSIPPI
SECRETARY OF STATE
ERIC CLARK

700 NORTH STREET
POST OFFICE BOX 136
JACKSON, MISSISSIPPI 39205-0136

TELEPHONE (601) 359-1350
FACSIMILE (601) 359-1499

May 23, 2005

Johnnie Long
Horizon Sales, Inc.
P.O. Box 3113
Tupelo, MS 38801

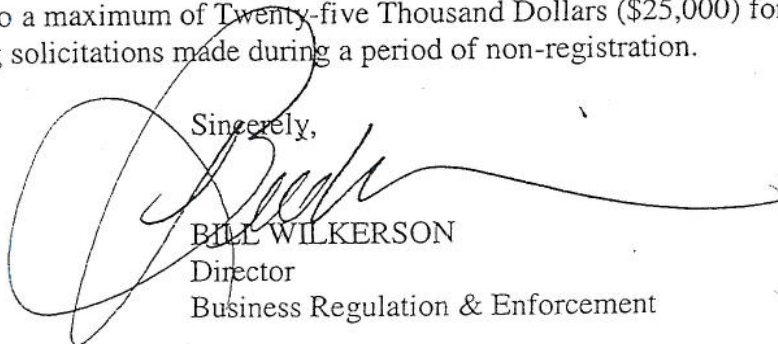
Dear Mr. Long:

It has come to our attention that Horizon Sales, Inc. is not registered with the Mississippi Secretary of State, as a professional fundraiser. We note that you have incorporated with the Business Services Division of the Mississippi Secretary of State's Office; however, Horizon Sales, Inc. current status shows "Dissolved." Pursuant to Mississippi law, all such organizations which solicit contributions must be registered with the State of Mississippi.

For your convenience, I have enclosed a registration packet for your use. Please complete the appropriate forms and return them to us immediately. If you have any questions about completing any of the forms, please contact Ms. Kendra Murray at (601) 359-6371.

Pursuant to Miss. Code Ann. §79-11-503 (Rev. 2001), any solicitation made without registration or renewal with this office as required by law and issuance of a certificate of registration is illegal. Further, pursuant to Miss. Code Ann. §79-11-509(4) (Rev. 2001) of the Mississippi Charitable Solicitations Act, a charity, or professional fundraiser, may be subject to an administrative penalty up to a maximum of Twenty-five Thousand Dollars (\$25,000) for each violation of the Act, including solicitations made during a period of non-registration.

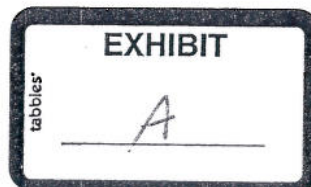
Sincerely,



BILL WILKERSON
Director
Business Regulation & Enforcement

Enclosures

100008297



Kelso & West CPAs, PLLC

PO Box 2245
Tupelo, MS 38803

Phone 662-842-7302
Fax 662-842-1917

August 4, 2005

Attention: Billy Lucky
State of Mississippi
Office of the Secretary of State
PO Box 136
Jackson, MS 39205-0136

Reference: Horizon Sales, Inc.
PO Box 3113
Tupelo, MS 38803

Dear Mr. Lucky:

Thanks for your recent call regarding our client, Horizon Sales, Inc. Our client's business consists of the selling of products to their customers for the purpose of making a profit over and above the cost of the product to our client. The customer is anybody who wishes to buy our client's product. Many of their customers include schools, churches, daycare centers etc. who in turn sell the product to benefit their own enterprise.

Their business does not meet the description of a professional fundraiser. Should your need additional information, I will be happy to notify my client or you may wish to contact them directly. It would probably be more appropriate for them to have their attorney contact you regarding this matter. Thank you for any assistance in resolving this issue.

Sincerely,


Larry J. Kelso

ps We are in the process of providing the information to reinstate their charter.

